

FOR IMMEDIATE RELEASE

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Statement of John Arriola

In recent weeks, a local reporter has conducted a sustained investigation of my office. This reporter, Phil Williams with WTVF NewsChannel5, has raised questions about some policies, procedures and spending practices in my office.

The television station's promotion of the pending stories has veered off track in an attempt to attract viewers and increase ratings by elevating the policies and procedures to the level of illegality. It is ridiculous and insulting to make assertions that I have violated the law.

Today, I am announcing some changes and reforms in my office in advance of that reporter's story. I believe it is good periodically to review policies and procedures and to make changes. While some of the policies and procedures in my office might be in need of modest changes and adjustments, which I am announcing today, I will not allow my office to be subjected to allegations that are rooted in misguided and sensational efforts to attract television viewers.

I'm proud of my management of the County Clerk's office. I have cut eight fulltime positions and reduced the cost of my office by approximately \$700,000 since I took office.

My office collects more than \$100 million a year for the state and local governments. It costs just \$4.3 million a year to run my office and we deposit more than \$4.7 million per year into the general fund from fees and commissions for performing our services ... that's a \$400,000 profit for the citizens of Davidson County. That's \$400,000 a year that can be used for our schools, fire and police and to support other government services.

These changes in policies and procedures will take effect immediately.

In recent days, we have seen another local office holder bring a lawsuit against this same television station and reporter for sensational reports that allegedly strayed from the truth. I have retained an attorney, Mr. Bryan Lewis. Should WTVF make unsubstantiated allegations against me or my office, I am prepared to take action to defend my honor as well as my stewardship of this office.

If Mr. Williams wants to run this office then I suggest he offer himself for election. Until then, I will continue to make good decisions for the people of Davidson County. It is appropriate for a reporter to raise questions about the use of public funds but I won't be bullied by allegations of impropriety where none exist.

Note to Reporters and Assignment Editors:

Mr. Arriola is available for interviews on any subjects touched upon in this release.

Call 615-880-2052 and ask for Mr. Jonathan Saad to schedule a phone interview or to arrange to come by the Clerk's office.

Reforms and Policy Changes:

Office of John Arriola, Davidson County Clerk

Performing Weddings: A Public Service

One of the functions of County Clerks in Tennessee is to perform weddings for citizens. This has been a traditional function of the county clerk in Tennessee. Tennessee law allows the clerk, as well as other elected officials who perform weddings, to receive a gratuity from the happy couples for whom we perform the wedding ceremony. The law does not set a specific amount for this gratuity.

My practice has been to accept a modest gratuity of \$40, normally in cash, from couples who ask me to perform their wedding ceremony. I do these weddings in my office, in people's homes and in locations all over Davidson County. Recently, I married a couple in Centennial Park a few days before the husband deployed to Iraq. I collect these gratuities and pay taxes on them as additional income as is allowed by Tennessee law. There is no set fee or gratuity and I do not receive a gratuity for every wedding. No couple has ever been turned away because they were unable to pay a gratuity.

Mr. Williams and WTFV have raised questions about this practice even implying it is illegal. This is a false and reckless assertion. I have provided an opinion from the Attorney General's office to Mr. Williams and to WTFV to prove my handling of this matter has been legal and above board.

Apparently during the course of his investigation, the reporter came into my office and interpreted statements of my staff as stating that the gratuity I accept for performing weddings was a fee. This does not reflect my policy. The attorney general, however, makes clear that county clerks are allowed to make a "request or solicitation of a gratuity." I have now changed the procedures in my office so that couples seeking to get married are provided with a written statement that I only accept a gratuity and that the amount is at their discretion.

I will continue to perform weddings for happy couples. I will continue to accept a voluntary gratuity when it is offered.

In addition, I have decided that going forward I will give gratuities I receive for performing marriages to charity. I already fund a scholarship for deserving students and I will

put the gratuities I receive into that scholarship fund or make contributions to community charities on a case by case basis.

If Mr. Williams or WTFV does not approve of the Tennessee law I recommend they lobby the General Assembly to have it changed.

Excerpts of Opinion of the AG on Wedding Compensation

According to an opinion rendered by Tennessee Attorney General Robert E. Cooper, Jr. on February 22, 2011:

“While it is lawful under Tenn. Code Ann. 36-3-301(c), for county mayors, county clerks, and municipal mayors to accept, request or solicit gratuities for performing wedding ceremonies, it is not lawful for such officials to charge a fee or demand compensation for performing wedding ceremonies.”

The opinion provides the following:

“Any gratuity received by a county mayor, county clerk or municipal mayor for the solemnization of a marriage, whether performed during or after such person’s regular working hours, shall be retained by such person as personal remuneration for such services, in addition to any other sources of compensation such person might receive, and such gratuity shall not be paid into the county general fund or the treasury of such municipality.”

Tenn. Code Ann 36-3-301 (c)

The opinion also states:

“... in order to avoid an absurd or incongruous result, it is our opinion that Tenn. Code Ann. 36-3-301 (c) should be construed to allow a request or solicitation of a gratuity by a county mayor, county clerk, or municipal mayor for performing wedding ceremonies.”

Tenn. Code Ann 36-3-301 (c)

John Arriola's Official Car

Since I first took office five years ago, I have driven a Chevrolet Tahoe vehicle provided by Metro. The reporter has raised questions about this vehicle and even made allegations it is a "luxury vehicle."

We operate six offices in Davidson County and I used the vehicle to go from office to office and for trips across the state of Tennessee to official functions. I often take the vehicle home because I sometimes go directly from home to one of the satellite offices instead of making my first appearance of the day at the downtown office.

If Mr. Williams thinks a Tahoe is a luxury vehicle I would recommend he get out more. That being said, I have decided to discontinue the practice of taking my official vehicle to my home unless there is a pressing business reason to do so. I've also decided to release the Tahoe I've been driving for five years and to start using a more fuel efficient flex fuel vehicle provided by Metro.

Public Relations Contract

In the last year we have moved our office and added new services to the Clerk's office. I can't afford to buy advertising so we hired a local, minority-owned public relations firm, The Andrews Agency, to help us to get the word out to the people through the local media.

It was a short term contract over two budget years that cost \$16,825 and ran through the end of June. I was not planning to continue that contract now that our moves are complete and the new services we offer are established.

Mr. Williams has raised questions about this contract and why I didn't put it out for bid.

The bottom line ... this was a good investment for the taxpayers and the public relations campaign was a success. The people of Davidson County elected me to make decisions and that's what I did. I stand by the decision and believe it was a good investment for the people of Nashville.

We were able to return more than \$400,000 to the general fund this year because it cost \$4.3 million to run our offices but we took in \$4.7 million in fees for our services in addition to collecting approximately \$100 million in taxes and fees for the state and local government general funds.

The Andrews Agency did a great job, helped us get the word out at a very low cost and we returned more than \$400,000 in fees and revenue to the general fund that can be used for schools, fire and police and for other government services.

Functions Performed by the Public Relations Firm

In the strategic plan developed by the public relations firm there were some recommendations that were overly political and inappropriate. These recommendations were not accepted or implemented.

The work of the public relations firm was entirely focused on the current and new services of my office. They communicated with the local news media about these services which helped us generate the excess funds we turned over to the Metro general fund.

In addition to collecting business taxes, handling vehicul registrations and the other traditional services of my office we now have the ability to do **Tennessee Driver's License Renewals, Passport Services** and to provide citizens with **Certified Birth Certificates**.

Hiring an outside company to make signs for clerk's office

The reporter also questioned my decision to hire a local company to make signs for my office.

I wasn't happy with the design or quality of the signs made by the government so I used a local small business to create the signs. Frankly, the government signs were hard to read.

The signs are important for consumers because we have changed locations and people need to be able to find the offices with ease. Appropriate signage is a good, onetime, investment for the people of Davidson County.

We spent approximately \$35,000 on the new signs and directional guidance but it is important to remember that we were still able to return more than \$400,000 to the general fund which means our office generates money to benefit taxpayers instead of costing money.

Shirts for staff with Clerk's logo

This practice was questioned by the reporter and, frankly, he's got a point.

We spent less than \$500 on shirts that members of our staff wear to civic functions. The particular shirts he questioned were for the Metro Retirees Christmas Party and cost just under \$500.

Honestly, it probably wasn't a very good idea and we shouldn't have done it. I take full responsibility for the decision. We won't be doing it again.

Contract with David Currey and Encore Interpretive Design

My office is working with various state and local officials to determine the feasibility of "in lane" tag renewals at emissions testing facilities. To assist me with evaluating this system and implementing an efficient policy, we have retained Encore Interpretive Design and David Currey.

Mr. Williams has raised questions about Mr. Currey's work. Mr. Currey has advised me on the "in lane" car tag renewal procedures which we are now preparing to implement.

In the course of his consulting for my office, Mr. Currey traveled to the states of Oregon and Colorado to study their "in lane" car registration system and to advise me on how best to implement that policy here in Nashville. While there, he visited the testing centers and the satellite offices to study their procedures and processes. In addition, Mr. Currey has been meeting with members of the Metro Council and the Metro Council Attorney to develop a change in the Metropolitan Code to allow us to implement the new strategy.

This "in lane" registration system will bring a tremendous level of efficiency and convenience to the taxpayers of Davidson County. I retained Mr. Currey to make sure we conducted the necessary thought and research to implement the policy properly.

Encore Interpretive Design is an established firm with relevant experience. Over the last three years, my office worked with Mr. Currey and paid the firm approximately \$48,000 to consult with us on the feasibility of doing "in lane" tag renewals.

We have not yet implemented "in lane" renewals but we continue to evaluate our options there and we expect to begin implementing the new policy and procedures soon. The company has done extensive work for local governments and private concerns including

helping with visitor experiences, design and consulting on projects in Clinton, Nashville, Parsons, Madison, Tullahoma, with the Tennessee Army National Guard, and many other locales.

We needed their expertise to evaluate our visitor experience options in relation to providing new services for in-the-lane-renewals and their work has been exemplary. A summary of some of their work is attached as an addendum.

News about North Nashville and Green Hills Office.

I have decided not to close the Green Hills or the North Nashville satellite offices for at least a year.

With the difficult economy we have been giving consideration to closing one or more of the satellite offices.

Currently, we have satellite offices at the North Nashville Police Precinct, the South Nashville Police Precinct, the Hermitage Police Precinct, the old Madison Library and Green Hills at Grace's Plaza.

I have been giving consideration to closing either the Green Hills location or the North Nashville location or both. However, after reviewing all of our staffing and evaluating the overall efficiency of our operations I have decided to keep open both the Green Hills and the North Nashville offices. We are going to make this work for all the people of Davidson County.

My job as Davidson County Clerk is to fulfill my constitutional responsibilities and to provide efficient and effective services to the people of Davidson County. The Green Hills office serves about 5,000 people a month and the North Nashville location serves about 2,500 each month. I believe we can keep those offices open and continue to return more money to the general fund than it costs to operate our offices.

I have started informing affected members of the Metro Council and the Mayor's Office as well as the local news media so that everyone will know we are keeping the North Nashville and Green Hills satellite offices open for at least a year.

**JACKSON, KWELLER, McKINNEY,
WARDEN, LEWIS & HAYES**

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EUGENE JACKSON, SR. (1895-1958)
EUGENE JACKSON, JR. (1915-1975)

JAMES BRYAN LEWIS
bryan.lewis@jkmwh.com

July 5, 2011

VIA HAND DELIVERY

WTVF-News Channel 5 Network, LLC
Lyn Plantinga, Station Manager
Sandy Boonstra, News Director
Phil Williams, Reporter

***Re: John Arriola v. WTVF - News Channel 5 Network, LLC,
a Tennessee Limited Liability Company, which is part of
a wholly-owned division of Landmark Media Enterprises,
a Virginia Limited Liability Company, Lyn Plantinga,
Station Manager, Sandy Boonstra, News Director, and
Phil Williams, Reporter, Defendants***

Dear Ladies and Gentleman:

Please be advised that I have been retained to represent Mr. John Arriola as it relates to Mr. Phil Williams' news report which is set to air tonight, Tuesday, July 5, 2011. This letter is to serve as notice that I have been authorized to pursue legal action for libel and false light/invasion of privacy against all named parties above in the event the news story scheduled to air tonight implies, intimates or directly refers to Mr. Arriola's practice of accepting money for performing weddings as an illegal practice.

I have attached a copy of the Attorney General's opinion, Opinion No. 11-18 dated February 22, 2011, wherein the Attorney General and Reporter, Robert E. Cooper, Jr., has opined that a county clerk, i.e. John Arriola, can request or solicit a gratuity, i.e. money, for his services in performing a wedding. Mr. Arriola has routinely requested a gratuity for the performance of weddings and has never turned away a couple if they were unable to provide said gratuity.

As can be seen from the Attorney General's opinion, it is perfectly legal for Mr. Arriola to solicit or request such gratuity for performing wedding services. Again, if Mr. Williams makes a direct accusation, allegation, implication, questions, or refers in any way to Mr. Arriola's practice of soliciting a gratuity for performing wedding services as illegal, I have been authorized to pursue legal action in this matter.

July 5, 2011

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Mr. Williams has already published on his Facebook account, Twitter account, and teasers that Mr. Arriola is engaging in an illegal practice. Mr. Williams is doing this by way of implying in a question form that Mr. Arriola is engaging in an illegal practice by requesting or soliciting a gratuity for performing weddings. We would immediately request that any reference to Mr. Arriola's requesting or soliciting a gratuity as being illegal be immediately removed from any medium of communication, including but not limited to Facebook, Twitter, teasers, internet, and/or television. The continued publication of any material portraying or depicting Mr. Arriola's actions as illegal will be considered to be intentional, malicious and/or reckless publication and broadcast of a material false statement. We would respectfully request that you edit these materials and your broadcast scheduled for tonight to remove any reference to Mr. Arriola's practices as being illegal.

If you have any questions, please do not hesitate to contact me. I am copying your counsel by way of this letter.

Sincerely,



JAMES BRYAN LEWIS

JBL/rsf

Enclosure

cc: Ron Harris (Via Facsimile & Email)



Aubrey Harwell (Via Facsimile & Email)



STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

February 22, 2011

Opinion No. 11-18

Tenn. Code Ann. § 36-3-301(c): Legality of Compensation for Performing Marriages

QUESTION

Under Tenn. Code Ann. § 36-3-301(c), is it lawful for an elected official (county mayor, county clerk, or municipal mayor) to charge, request, or otherwise solicit money or compensation for the performance of a marriage during or after office hours?

OPINION

While it is lawful under Tenn. Code Ann. § 36-3-301(c) for county mayors, county clerks, and municipal mayors to accept, request or solicit gratuities for performing wedding ceremonies, it is not lawful for such officials to charge a fee or demand compensation for performing wedding ceremonies.¹

ANALYSIS

As a general rule, elected officials must always guard and protect the interest of the public and may not use their public office directly or indirectly for a personal profit. 67 C.J.S. Officers § 244. Under the provisions of Tenn. Code Ann. § 8-21-101, public officers are not allowed to “demand or receive fees or other compensation for any service further than is expressly provided by law.”

You have asked whether Tenn. Code Ann. § 36-3-301(c) authorizes county mayors, county clerks, and municipal mayors to charge, request, or otherwise solicit compensation for the performance of a marriage ceremony. This statute provides:

Any gratuity received by a county mayor, county clerk or municipal mayor for the solemnization of a marriage, whether performed during or after such person's regular working hours, shall be retained by such person as personal remuneration for such services, in addition to any other sources of compensation such person might receive, and such gratuity shall not be paid into the

¹ This opinion refers only to the officials addressed by Tenn. Code Ann. § 36-3-301(c) and not to other officials authorized by law to perform marriage ceremonies.

county general fund or the treasury of such municipality.

Tenn. Code Ann. § 36-3-301(c).

In construing statutes, courts must “ascertain and give effect to the legislative intent without unduly restricting or expanding a statute’s coverage beyond its intended scope.” *Wilson v. Johnson County*, 879 S.W.2d 807, 809 (Tenn. 1994). When the statute is unambiguous, legislative intent is determined from the plain and ordinary meaning of the language used in the statute. *Freeman v. Marco Transp. Co.*, 27 S.W.3d 909, 911 (Tenn. 2000). The statutory language must be “read in the context of the entire statute, without any forced or subtle construction which would extend or limit its meaning.” *National Gas Distribs. v. State*, 804 S.W.2d 66, 67 (Tenn. 1991). A statute should be construed so that “no part will be inoperative, superfluous, void or insignificant.” *State v. Northcutt*, 568 S.W.2d 636, 637-38 (Tenn. 1978). In addition, a statute should not be construed to produce an absurd or incongruous result. *Barnett v. Barnett*, 27 S.W.3d 904, 908 (Tenn. 2000).

The term “gratuity” has been defined as “something given voluntarily or beyond obligation, usually in return for or in anticipation of some service.” *Webster’s Ninth New Collegiate Dictionary*. By employing the term “gratuity” in referring to any remuneration received for the performance of marriage services, the General Assembly has expressed its intent to allow county mayors, county clerks, and municipal mayors to receive moneys voluntarily given. As a practical matter, this may involve a discussion, request or solicitation of such gratuity. Accordingly, in order to avoid an absurd or incongruous result, it is our opinion that Tenn. Code Ann. § 36-3-301(c) should be construed to allow a request or solicitation of a gratuity by a county mayor, county clerk, or municipal mayor for performing wedding ceremonies.

The General Assembly did not, however, expressly authorize such officials to charge or demand a fee for performing marriage ceremonies. Therefore, it is our opinion that county mayors, county clerks, and municipal mayors are precluded by Tenn. Code Ann. § 8-21-101 from charging a fee or demanding money for performing wedding ceremonies.

ROBERT E. COOPER, JR.
Attorney General and Reporter

GINA J. BARHAM
Deputy Attorney General

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DIANNE STAMEY DYCUS
Deputy Attorney General

Requested by:

Honorable Charlotte Burks
State Senator
Suite 304, War Memorial Building
Nashville, TN 37243